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August 18, 1999

Alfred W Ricciardi, Esq  
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Re Indian Bend Wash Superfund Site, South Study Area, Tempe, Arizona  
Circuit Express, Inc

Dear Mr Ricciardi

This letter responds to your letters of May 27, 1999, and July 6, 1999, concerning Circuit Express, Inc, and the Indian Bend Wash Superfund Site, South Study Area. EPA understands that your client would like more certainty about its PRP status at the Site. As summarized below, evidence exists linking Circuit Express to the soils contamination at the Circuit Express facility located at 2149 East 5<sup>th</sup> Street, Tempe, Arizona. In addition, EPA can address only the current PRP status of Circuit Express, based on evidence available to date, and cannot provide unequivocal and categorical statements concerning liability. I hope, nonetheless, that the following discussion will give you and your client a fuller understanding of EPA's intentions.

Circuit Express operated the facility, located at 2149 E 5<sup>th</sup> Street, Tempe, Arizona, manufacturing printed circuit boards, from 1987 to 1993. PCE has been found in the shallow soil gas at the facility as high as 84 ug/l, and was also found in nearby groundwater wells. TCA has been found in soil gas at levels as high as 58 ug/l. In addition, TCE has been found in the soil gas at levels as high as 31 ug/l, and has been found at an exceedingly low level in groundwater (1 ug/l). Deeper soil vapor well monitoring shows the presence of PCE (353 ug/l), DCE (30 ug/l), and TCE (8 ug/l) at depth.

Although Circuit Express claims not to have used VOCs in its manufacturing process, documentary evidence indicates that, at times, Circuit Express and its predecessor, Megatronics, possessed and used solvents, in addition to toluene, at the facility. (See enclosed five invoices from Ernst W. Dorn Co., Inc., dated 1991; Wastewater Discharge Permit Applications and Questionnaires, City of Tempe, December 31, 1985, June 30, 1986, December 30, 1990, MSDSs for Dry Breeze.)

DUPLICATE

In the early 1990s, EPA evaluated facilities to determine PRPs for soil contamination, owners of properties with soil contamination, such as Circuit Express, were included as PRPs. EPA sent Circuit Express and individuals associated with it general notice letters in June of 1993. In 1997, EPA reviewed over 50 facilities to determine whether they may have contributed to the groundwater contamination at the Site. A facility was included as a groundwater PRP if soil vapor samples showed concentrations there of PCE or TCE 50 ug/l or greater, and the same contaminant, PCE or TCE, also was found downgradient in groundwater within approximately half a mile, and disposal at the facility appeared to have occurred, based on the presence of solvents at a facility and the soil gas pattern. EPA sent Circuit Express and others associated with it a general notice letter in January 1998 because the Circuit Express facility appeared to meet these criteria.

In your letter of August 31, 1998, Circuit Express argues that only prior owners or operators disposed of the on-site PCE, and that Circuit Express therefore should not be included as a PRP. EPA staff evaluated this letter, as well as EPA's own evidence concerning the Site, as rapidly as resources allowed given concurrent efforts to issue a Record of Decision for the groundwater remediation and the change in Remedial Project Managers. EPA also evaluated the activities of the prior owners or operators of the property because Circuit Express continued the same operations as the majority of the prior operators, which appear to have been related to or predecessors of Circuit Express. After due consideration of the arguments in your letter, EPA determined that, although it appears that this property contributed to the groundwater PCE and TCE contamination, Circuit Express would not then be requested to conduct or pay for groundwater remedial work at the Site.

I notified you of this determination during our telephone call on April 7, 1999, stating that EPA's current intent was not to include Circuit Express in EPA's proposed remedial design administrative consent order, and that EPA's intent was based on our concerns prompted by your letter. I also advised you that EPA was still investigating, and that further evidence could alter this determination. Although I declined, on the basis of workload, to provide you with a letter summarizing our telephone call, I did offer to speak with you and your clients together to confirm the substance of the conversation. You did not take me up on this offer, but instead sent me a letter of April 9, which overstated the substance of our discussion, as I then was required to explain in my following letter of April 27. Once again, because further investigations may *produce substantial evidence linking Circuit Express to the groundwater contamination*, we are not able to declare definitively that Circuit Express will never be identified as a PRP for groundwater. On the other hand, our telephone call was intended to significantly lessen your client's anxiety about EPA's intentions based on its current understanding of the facts.

For the reasons given above, EPA believes that Circuit Express or its predecessors possessed solvents and appear to have contributed them to the soil vapor contamination at this facility. EPA is currently in the process of determining whether the soil gas concentrations will require remediation consistent with the 1993 Record of Decision. As you know, that ROD

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established soil vapor extraction as the remedy for all properties meeting -- or "plugging-in" to -- specified criteria. We will notify Circuit Express when our determination is made. At this time, we are not able to state that Circuit Express is not responsible for the conduct of on-site soil contamination. It is hoped that this determination will be made by the end of this year.

EPA takes issue with your contention that EPA's refusal to state categorically that Circuit Express is not and never will be a PRP at the Site manifests a violation of EPA's obligation to properly investigate a site. EPA has conducted detailed, diligent investigations and PRP search and has advised the public and Circuit Express of the outcome of those extensive efforts. Such investigations are, however, iterative in nature. EPA is not currently seeking to enforce against Circuit Express. Therefore, there is no current dispute and no need to invoke, as you have suggested, alternative dispute resolution. Your letters mention the possibility of a sale to of your client, Circuit Express, Inc., it is regrettable that the a potential purchaser did not complete the acquisition. We had not previously been told of this potential purchase in your earlier correspondence and telephone calls. Although we can make no guarantees, we are willing to discuss, for informational purposes, EPA's current enforcement intentions with potential buyers of Circuit Express, and would have done so before, if we had been so asked. In any event, EPA believes that Circuit Express has benefitted substantially by EPA's conducting, rather than requiring Circuit Express to conduct, the soils and groundwater investigations at the property.

I truly hope that this summary provides some measure of comfort for Circuit Express. Please telephone me at the above number if you wish to discuss this letter.

Sincerely,

A handwritten signature in black ink, appearing to read "Katherine B. Steuer", followed by a horizontal line.

Katherine B. Steuer  
Assistant Regional Counsel

cc. Nancy Riveland-Har, EPA SFD-7-1  
Clifford Davis, EPA SFD-7